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# The Loyola Reporter

Loyola Law School Los Angeles

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# Loyola Reporter

Loyola Law School, Los Angeles, California  
Volume 14, Number 6  
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*Inside: photos of  
Libel & Slander 1991*

## CONGRATS GRADS!

Ya Ya Ya

EVERYTHING I EVER NEEDED TO KNOW

I LEARNED IN



By Leslie Reeks

It was a bright cold day in April, and the clocks were striking thirteen.

Justice Is Relative.  
Clarity Is Redundancy.  
Fiction Is Real.

-1991

When I thought about what sort of column I wanted to write for the last issue of the Reporter this year-- and the last one I would ever write-- I thought of a piece that would somehow inspire; that would take a long passage of time and put it in a pithy ball and somehow serve to put it all in perspective. In other words, THIS is not the piece I had in mind. But that's okay; I never found perspective. But I promise I'll be brief.

I owe Loyola a favor. It's been very helpful to me in moving toward my goal of dumping an irritating perfectionistic mind-set. We've seen in earlier Reporter writings that, defy logic though it may, a successful legal education comes by ignoring detail, and skimming-- never reading. Detail wastes issue-spotting time; reading bogs you down with detail. When I started all this, I had something else in mind.

It is my fourth (But far more important, LAST) year here, so I grant myself standing to assert some things unabashedly. What has interested me most about this whole ever-stimulating experience is that law school is very much like tv: Suspend your common sense, let the material dictate its own reality, and pretend the reasonable person would find it rational. This madness lurks un-self-consciously everywhere you look: Rules, decisions, class itself.

Here's a rule to illustrate the point: The concept of the fertile octogenarian. Only a midwestern housewife standing at the checkout line in the supermarket would believe that an 80-year-old woman was pregnant, despite the hysterectomy she had in her forties. Ooops, I mean the housewife and a plethora of knowledgeable attorneys.

Or take jury nullification. The rule is that the judge instructs the jury on what they must consider in reaching a verdict, and what they absolutely cannot consider. The fun of it is that there's a secret rule

that the jury isn't allowed to know about providing that they can just blow it all off and consider whatever they feel like considering. Shh, don't tell.

I'd like to write an article about this someday for the layperson, and sell it to Readers Digest. No, wait...to really get the word out to potential jurors, I'll sell it to the magazine at the checkout line, provided its publishers won't be dissuaded by veracity.

Criminal law is actually a primary authority to turn to for tv-esque logic. Legal impossibility, for example, is a defense to attempt since D's act, if carried out, would not be criminal. However, factual impossibility may or may not be a defense. If D has a mistaken belief of what the facts are, and that mistaken belief would be a crime if it were true, then there is no defense.

This means that if D mistakenly believes his would-be murder victim is alive-- when in fact he is not-- and D attempts to kill him, then factual impossibility is no defense since it is criminal to attempt to kill.

So what we've got is the legal impossibility of committing a crime (killing a dead person) resulting in liability since if the person were alive the act would have been criminal.

This all becomes particularly intriguing when employing the ALI approach: Liability depends solely on what D believes the facts to be. So, a D who brandishes a stuffed Garfield is liable for attempted murder if he believed the victim (whose actually dead) would die by being forced to look upon a stuffed animal. And it could happen. But I genuinely urge anyone still skimming who can explain these things to get back to me before the bar.

The average reasonable person is another good example of proof. While it's a cliché in legal commentary to try to peg this guy/gal, I'll do it anyway. After driving to and fro Loyola for four years, I assert the average reasonable person applies mascara while driving, never pulls over for emergency vehicles, and thinks "Yield" means speed up and change lanes without looking. Tell me, is this a local standard?

Because proof is found in law itself, it is also found in the classroom. Remember that thing you had in those early years commonly referred to as your "thinking cap"? You had to wear it to school everyday to avoid the dreaded wrath of Miss Whoever?

Law School, being an elite institution of advanced educational pursuit, is more subtle. Law students may not even be aware of their caps. But like the olden days, they have to wear them everyday to avoid the dreaded layperson's logic. They're called "brain booster bonnets" and they keep your analysis lawyer-like.

So what happens if you go to class without your brain booster? You correctly- incorrectly answer a prof's inquiry on what's required for the auto exception to apply with the words..."Uh, an automobile." Makes sense to me, though I never did spring for the bonnet.

But hey, nothing wrong with a little fiction-- legal or otherwise. Really, who am I, to speak of law in such terms? After all, poets say that sometimes you have to lie to tell the truth. And in the realm of poetry, that makes sense. Philosophers have been noted for doubting their own existence, except that they 'think', and insisting that the next time you count, 99 might not follow 98. And in the realm of philosophy, that makes sense too.

Truth be known, I've learned a lot around here.

About myself I've discovered that it isn't a sense of humor that has me pondering the absurd in things, but that 'absurd' is just the way I think. I'll simply 'think' myself a poet and conclude that I must be reasonable to be absurd.

And I've learned that this place has changed the way I think. I can no longer enjoy a leisurely drive without thinking, 'Oops, probable cause again.' I'm hoping that wears off.

And I've learned things about other law students. There's a highly irritating image I have in my mind's eye that I just can't shake. It's an image of this guy who hops in his Subaru after lecture, brushes his hair just so before starting the engine, and searches the glove box for that treasured AC/DC cassette when he hits the first stop sign. It is there he waits to pull onto the main thoroughfare at 5 mph until he can do so right in front of a car moving at a swiftly comfortable speed. Never mind that there was no one else coming.

Our law student driver checks his hair out in the mirror one more time and his logic shines through at the next block, where he turns right. "Hey," you hear him thinking as you lay on your horn, "I was only going a block. Chilllll ouuuut, man!"

Anyway, I see this guy around campus and I get this horrible vision of him behind the wheel. Pretty heady stuff for only 4 years.

So, what am I talking about? That I can't answer. It's been long, not too fun, but for all intents and purposes it is O-V-E-R. And because an insider's view has

shown me that justice is relative and fiction is real and clarity is redundancy and clarity is redundancy and the theft of ideas is in the eye of the thief, I have stolen...Been inspired by Marc Mostman's cartoons. I distinguish our efforts on the grounds that he has artistic talent. You'll find them on the last page and I just want to take this opportunity to say that absolutely no ill will is intended in the prof Tribute series.

\*

Yes! 2+2 CAN equal 5, depending on the skill of the advocate. I said it, so now I can go.

And, yes, YA YA YA, I know I said I'd be brief. But in Legality, brevity is but a mere fiction, a conundrum of the reasonable person; a thing, idea or concept relative in nature to the person or people contemplating its true meaning, its distinction from lack of brevity, and the threshold beyond which it passes into becoming a thing or idea which is no longer brief.

## Success Story: A Lawyer's Line

By Tal Finney

Libel and Slander 1991 was a smashing success. From the scintillating "Sex, Laws, and Videotapes" to the intellectual "Art or Food," the show was the biggest, brightest, most action-packed ever. Actors, dancers, musicians and bountiful refreshments kept the crowd intoxicated. The show had many great moments, and even a little practical advice for young lawyers: the law does boil down to one rule ("Don't be a Dick"); and "should times get rough in our professional futures, remember to give them a lawyer's line." (See the photomontage inside, your personal memento.)

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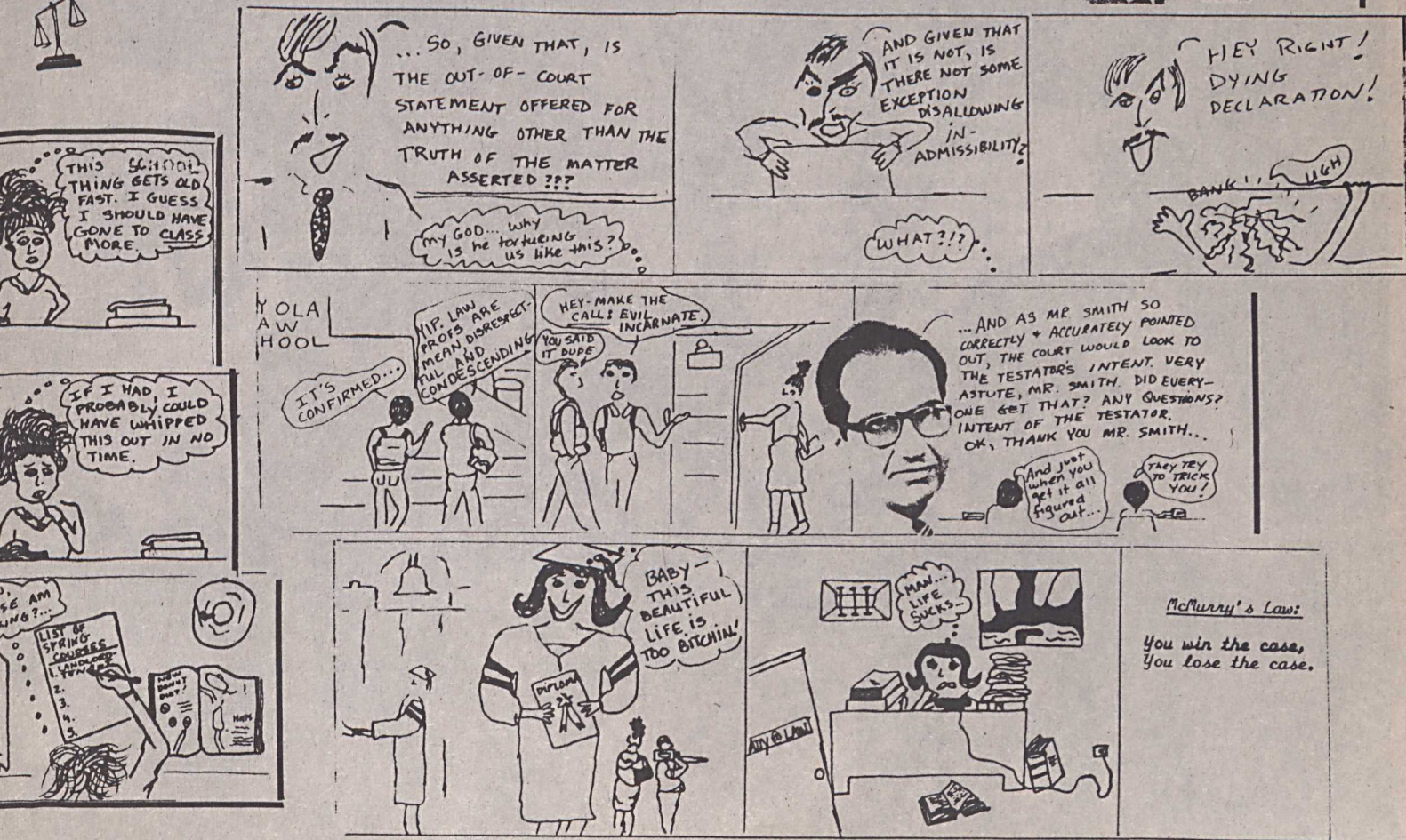
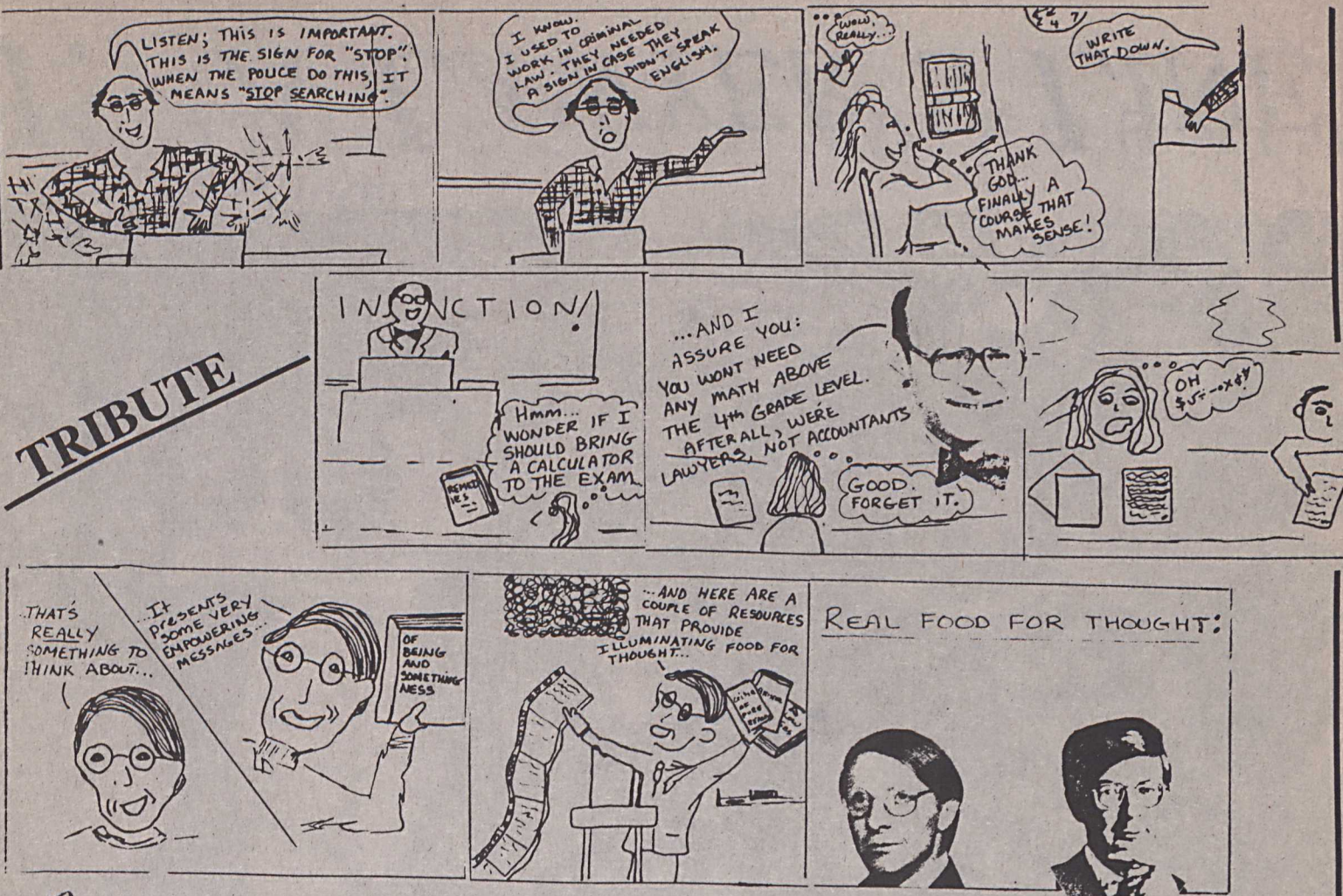






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